LAW

THE COLUMBIAN CALL

MEDICAL COLLEGE

DENTAL

VETERINARY

GRADUATE SCIENTIFIC

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OFFICERS OF SENIOR LAW CLASS:

W. H. Grandy. J. P. Fontron. R. E. Burnham. C. Linkins. C. S. Towles. W. H Powell.
J. C. Dabney. P. Tindall. W. F. Kirk. W. W. H. Robinson. A. A. Selhausen. W. Crist.

THE.... COLUMBIAN UNIVERSITY.

THE COLLEGE

THE CORCORAN SCIENTIFIC SCHOOL

THE GRADUATE SCHOOL

THE LAW SCHOOL

THE MEDICAL SCHOOL

THE DENTAL SCHOOL

THE VETERINARY SCHOOL

The Columbian Call

WASHINGTON, D. C., NOVEMBER 16, 1897.

FUTURE LAWYERS

Who Were Chosen by Their Fellow-Students as Officers of the Class of '98, with Short Sketches of Their Lives.

On the first page of this issue we present a representative group, it being a photograph of the officers of the Senior Law Class. These young men were elected to manage the business affairs of those who expect next spring to attain the degree of L. L. B.

William F. Kirk, of Galveston, Tex., President of the Senior Class, was born in Stanly county, North Carolina, in July, 1873. At the age of sixteen he went to Texas, and the following year entered the University of Nashville, from which institution he was graduated in the Class of '94. He returned to Texas and taught two years in the public schools of Galveston. Was appointed, through the Civil Service Commission, to a clerkship in the Department of Labor, May, 1896, where he is now engaged. In his Junior year at the Columbian Law School Mr. Kirk won first honors in the fifth public debate. Was Chairman of the Reception Committee at Commencement, and is a member of Kappa Sigma Fraternity. He expects to return to Texas to practice upon the completion of his course at Columbian.

Armin A. Selhausen, Vice-President, was born at Washington, D. C., in 1874. Attended public school until ten years of age. He afterwards attended the Columbian University Preparatory School and The Emerson Institute, going from there to the Johns Hopkins University, where he remained for several years, after which he entered the Columbian Law Class of '98.

Walter W. H. Robinson, Jr., was born in Georgetown, D. C., February 18, 1878. At the age of three years he went west with his parents, who afterwards settled in Susquehanna, Pa. He received private instruction until about seven years old, when he entered the public school at Susquehanna, Pa. When ten years of age he attended the Maryland Agricultural College. Is Secretary of Law Class of '98.

Philip Tindall, Treasurer, was born in Washington, D. C., August 20, 1877; attended the common schools of Washington, and graduated from the Central High School in 1895 and '96, when he entered the Junior Class of the Columbian Law School, in the fall of '96.

Joseph P. Fontron, Historian, was born at Castleton, Ill., on March 22, 1873. Since 1876 he has resided in Kansas—for the past six years in the town of Hutchinson. His education was received in the Kansas State Normal School. Politically he is a Republican.

Charles Linkins, Chairman of the Executive Committee, was born in the city of Washington; attended the public schools, and graduated from the High School with the class of '94.

Royal E. Burnham was born in Washington in 1876, and attended its public schools, graduating from the Eastern High School in '94.

Wade H. Powell was born in Blakely, Early county, Georgia, December 19, 1877. Graduated at the Blakely Institute, Class of '95; read law in his father's office, and was admitted to the bar in April, 1897, and in September entered the Columbian University in the Class of '98.

Clarence Spotswood Towles, son of Capt. Jno. C. Towles, was born at Towles Point, Lancaster county, Virginia, on November 22, 1870. His early life was spent on the farm. From 1887 to 1889 he attended Aberdeen Academy, in King and Queen county, Va.; from 1889 to 1891 he was a student at William and Mary College. While there he was editor of "William and Mary College Monthly," and in 1891 won the prize debate. In 1891–'92 he

taught at Wicomico, Va. He received an appointment to West Point as the result of a competitive examination in 1892, but was rejected on account of an impediment in speech. From 1892 to 1894 Mr. Towles was the principal of a graded school at Reedville, Va. He read law in the office of Hon. John C. Ewell, and having passed the required examinations was admitted to practice in the fall of 1894. Was appointed Master Commissioner in Chancery in 1895. In 1896 Mr. Towles was chosen Examiner of Records for the Ninth Judicial Circuit of Virginia, which office he now holds. He entered Columbian University Law School as a senior in September, and was elected a member of the Executive Committee of the class organization.

Adolph G. Keyser was born in Washington, D. C., June, 1874. After receiving a common school education and graduating from the Washington High School, he immediately traveled west, where he received a situation with the Chicago, Burlington and Quincy Railroad Company at Chicago, whereupon he felt the necessity of having some knowledge of law. He returned to Washington in October, 1896, entering the Class of '98. It is Mr. Keyser's intention, after graduating from the Columbian University, to settle in Omaha, Neb. Is a member of the Executive Committee.

Wiley Harrison Grandy was born on the first day of January, 1878, in Elizabeth City, North Carolina, being a son of Hon. Cyrus Wiley Grandy, a prominent attorney of that city, who served his State as a Representative in the upper house of the Legislature. His mother was a Miss Glover, a descendant of the Charles family, one of the most distinguished of Scotland and North Carolina. Mr. Grandy began his education at the Atlantic Collegiate Institute, in the city in which he was born; received the first prize in oratory. Later he attended Charlotte Hill, in Southern Maryland, receiving a diploma. Afterward he came to Washington, and has been for two years a student of law at the Columbian University. Last year he was chosen Secretary of the Debating Society, and this year is one of the officers of the Executive Committee, and also one of the executive officers of the class.

Wiley Crist was twenty-one years of age on the third of last November. He is private secretary to Hon. Walter Reeves, M. C., Illinois. Is associate editor of the CALL, representing the Law Department. Intends to practice law in Illinois.

John C. Dabney was born at Chatham, Va., July 11, 1874. He attended the public school at that place until he entered the Virginia Polytechnic Institute at Blacksburg, Va. He graduated from this institution as Cadet Captain of Artillery with the Class of '95, receiving the degree of Bachelor of Science in a course of applied chemistry. Upon graduating he accepted a position in the U. S. Department of Agriculture, where he is now engaged in chemical and horticultural investigations with seed, being assigned to the Division of Botany. He entered the Columbian School with the present senior class. Is a member of the Independent Order of Odd Fellows, the Kappa Sigma Fraternity, the Chemical Society of Washington, and the Virginia Club of the Columbian Law School.

A Kisser.

Full many a time a maid I've kissed
With ardor reprehensible;
I would not falter nor desist
Till she was nigh insensible;
I thought that I was pretty strong
At kissing maidens kissable,
My kisses lasting just as long
As good taste made permissible.

To Boston girls my lips I've glued,
And tried to put some fire in them;
And New York girls that I have wooed,
Who had enough desire in them;
Chicago girls, whose kisses pop,
I've smacked with great audacity—
And never was I known to stop
Ere reaching their capacity.

In training thus for years, I thought
My record nigh unbreakable,
Till Philadelphia girls I sought
With purpose unmistakable;
'Twas here I reached the height of bliss—
So *slow* is that vicinity
It takes them just a month to kiss—
There met I my affinity!

The Stayer.

THE JUDGMENT NON OBSTANTE VEREDICTO.

It is somewhat remarkable that there is no recorded instance in England, so far at least as our research has gone, of a decision that a judgment *veredicto non obstante* can or cannot be rendered for the defendant in an ordinary action. It is true there is some positive assertion in reported cases that this species of judgment cannot be rendered for the defendant, and that the utmost he can claim in a state of things where the plaintiff would be entitled to judgment *nullo respectu habito veredicto* is to have an arrest of the judgment which in regular course would be entered on the verdict for the plaintiff; but it will be found, on examination, that what is thus laid down as undoubted law is merely *gratis dictum*.

The Reports in America abound in *dicta* repeating the doctrine as given in England, and, as we shall see presently, there are at least two cases in this country directly deciding that the defendant cannot have judgment regardless of the verdict.

The judgment *non obstante veredicto* is a species of the judgment by confession. The occasion for a judgment of this kind is, to employ the common illustration, when the verdict for the defendant is founded on an immaterial issue resulting from a traverse of the matter, or some part of the matter, of an invalid plea in confession and avoidance. In such case, if it be manifest to the court that the matter of the defendant's plea can in no possible way constitute a bar to the action, and, at the same time that the plea involves a confession of the plaintiff's case, the court, seeing that no good can come of an award of a repleader, and disregarding the verdict as having no bearing on the merits of the case, at once proceeds to enter judgment for the plaintiff as upon the defendant's confession. Such a judgment is always on the merits, and never rendered except in very plain cases, and where the defendant's plea is in confession and avoidance. As nothing short of an actual intentional confession will afford a foundation for this judgment, it can never be rendered on the confession implied by the rules of pleading from not answering traversable matter. And in the absence of a confession the court cannot enter a judgment of any kind, but must award a repleader, for its own sake and the sake of justice; for to give judgment would be a purely arbitrary and, therefore, void act.

Now, if it is the law that the judgment *non obstante* can be rendered for the plaintiff only, and that the most the defendant is entitled to where the plaintiff has a verdict against him on an immaterial issue is to have an arrest of judgment, albeit his defence or justification be fully confessed by the replication, there is thus established a marked inequality between the plaintiff and the defendant, in this, that in the case supposed the arrest of judgment leaves the plaintiff at liberty to renew the contest by bringing another action, whereas, as we have seen, when the verdict is for the defendant on an immaterial issue and the plaintiff's cause of action is confessed by the defendant's plea, the plaintiff is entitled to judgment *non obstante*, which, being on the merits, absolutely concludes the defendant.

The unreasonableness of denying the defendant the right to have judgment *veredicto non obstante* may be illustrated by reference to the case of *Rand* v. *Vaughan*,* which was in trespass. One of the defendants pleaded the general issue, and also specially, justifying as bailiff, &c., for a distress under 11 Geo. II. c. 19, § 1, the plea avering that the rent for which the distress was levied became due 25th March, 1834, that the goods distrained were fraudulently and clandestinely removed to prevent the distress, and that the distress was made within thirty days next ensuing such removal. The plaintiff in his replication alleged that the goods were conveyed away on the 25th March, 1834, *before* the time when the rent became due and payable; and the defendant took issue on that allegation. The jury found for the plaintiff on both issues, with £10 damages.

The *defendant* moved for judgment *non obstante*, on the ground that, conceding the truth of the replication, enough remained uncontradicted on the plea to bar the plaintiff's recovery. Unfortunately for the point now under discussion, the Common Pleas regarded the issue on the replication as material and going to the foundation of the defendant's justification, and hence had no ground for withholding judgment on the verdict. But it is to what fell from the learned Chief Justice (Tindal) in disposing of the motion that we desire to call attention. He said the defendant's motion "would, perhaps, have been more correct in point of form, *if it had been a motion to arrest the judgment for the plaintiff*, on the ground that enough still remains on the defendant's special plea, confessed by the plaintiff's replication, to bear the plaintiff's demand;" in other words, that if the averment in the replication that the distress was levied before the rent was due and

*1 Bing. N. C. 767; s. c. 27 Eng. C. L. R. p. 568.

(CONTINUED ON PAGE 10.

The Columbian Call.

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TUESDAY, NOVEMBER 16, 1897.

With due apologies for delay incident to this, our maiden effort, we present our little sheet to the journalistic world. Perfection we have not attained to, nor do we assume to say that in the days to come we shall be able to ascend to that lofty pinnacle. Our purpose is to put forth our best efforts, present you with the result, trusting to the generosity of our readers in their criticisms.

Our paper should be on a par with the best college journal extant. To this end each student, male and female, in all departments of the University is invited to co-operate. Original articles of merit are solicited. Every student should subscribe and advance the Call's interests whenever possible. Its advertisers should receive their patronage, other things being equal.

The Glee Club movement recently inaugurated deserves the support of the students. There should be no difficulty with the abundance of material at hand to make it a grand success. Students wake up! Be true to your colors. Rise to your present opportunities. Sis! Boom! Rah! Success to the Glee Club, Rah! Rah! Rah!

"Sal."

Oh, I never seed another gal,
An' I hope I never shall,
Dat can make a feller love'er
Lak dat yaller nigger Sal.

Oh! her foot it am most ample,
She wear a number leben;
Yet to squeeze dat nigger once
I'd give a lot in Heben.

Dat gal am liben now wid we,
Aldo we nebber marry,
'Twas hard for me to get her 'do,
From dat dusky coon named Harry.

I'se gwine to get a license soon,
An' jine 'er to me good;
Shore, dat's de only way to make a gal
Act in the way she should.

T. E.

Our College Yell.

What a noble institution is the College Yell. Given rise to by a colossal taste, it becomes, gracefully, colossal schools only. Of these none hath met the requirements more aptly than the Columbian University, and to which of the four corners of the earth will one journey if he looketh about to find a nobler yell than that one, which is the rich heritage of those youth, who within the walls of that great manifestation of human ingenuity, supply the dome of thought with gray matter. Ah! how that yell seems to roll forth from between the labials—not scrape forth—squeeze thro'—making a harsh, rasping, thin sound, as it rubs against the teeth—but rushing, pouring, swelling out, more like an immense volume of smoke shot from a smokestack. How it spreadeth itself out upon the circumambient air—the terror and delight of the natives. Then analyze that yell. Look at each part separate from the other members, distinct from the other members. See how perfectly it is formed, how void it is of any imperfections. No such thing in this as zip! zip! a sound which comes from the mouth—the frail squeal of the sickly lap dog. No! but rather the deep-throated Rah! Rah!—the loud sentinal cry of the mastiff, that wakes the echo in the distant hills. And when the first rays of the morning sun wakes old Earth to another day of work and he laughs—not smiles—but laughs aloud Ha! Ha! to see the glory and the beauty and the joy which glows in every rippling brook and on every emerald vine; how then doth that yell ring forth from the throats of its lovers like the music of a thousand silver bells. When a yell like that is yelled all who hear it should

gather about it and support it as a patriot army would gather about and defend the banner of their King. Yea, it is the shibboleth of eveay true Columbian man and maid, and its proper enunciation should be their highest aspiration.

Law Terminology Applied to Football.

Estoppel—A good tackle.

Action for Tort—A claim of foul.

Femme Sole—Young lady spectator without an escort.

Forcible Entry and Detainer—A break through and tackle behind the line.

Lex suprema—"Cape" Alley.

Assault and Battery—Slugging in the Scrimmage.

Statu quo—Score, 0 to 0.

Action in Chancery—Appeal to S. I. A. A.

Professional Status—Inability to prove amateurship.

Political Status—Four years on the same team.

A fee simple—Admission, 50c.

Fixtures—A heavy line.

Reversion and Remainder—Taking the ball on "downs" and making a touchdown.

Quasi Contracts—A faculty restriction.

Void *ab initio*—The spectator's contract.

Valid *ab initio*—The gatekeeper's contract.

Plea of Confession and Avoidance—"He slugged me first."

Mandamus—Well, we were severely criticised for allowing a mandamus, regarding that Normalite game. (Prize puzzle.)

Notes.

The third annual convention of the Association of Southern Colleges and Preparatory Schools was held at the University of Tennessee, Knoxville, Nov. 2–4. The attendance was unusually large, and almost all the colleges and schools in the South were represented.

Vanderbilt and the University of the South are looking for a "Lost, strayed or stolen" foot ball team.

It is rumored that ex-President Cleveland will be asked to accept the presidency of University of Virginia. Virginia has never had a president, as Jefferson, the founder, thought the office unnecessary.

At Cornell the upper-classmen have passed resolutions to the effect that freshmen shall not smoke pipes upon the streets of Ithaca nor upon the campus, nor carry canes, and under no condition can they wear silk hats.

The University of Michigan has an enrollment of over 3,000 students this year.

There is some talk of consolidating Harvard and the Massachusetts Institute of Technology, which would make one of the largest universities in the world, with a total of about 6,000 students.

The College of Mexico is the oldest in North America, being fifty years older than Harvard.

The Vanderbilt Medical College, because of the yellow fever epidemic, has opened its doors to students of the Medical College of Memphis. About one hundred students have run the shot-gun quarantine and are now basking in the sunshine of Vanderbilt.

The University of Illinois has just completed a new library building at a cost of $75,000.

Yale's freshman class numbers 296, a loss of 58 from last year. The academic department contains 1,241.

The University Club of Paris, composed of graduates of American colleges, has taken charge of the grave of Layfaette.

The Georgia State University will not admit women, despite the chancellor's recommendation, unless the legislature so orders. Thus the trustees have voted.

A party from the Lick Observatory of the University of California sailed last week for India, to observe an eclipse of the sun which will occur January 21, 1898.

The largest bell in the United States belongs to the Notre Dame.

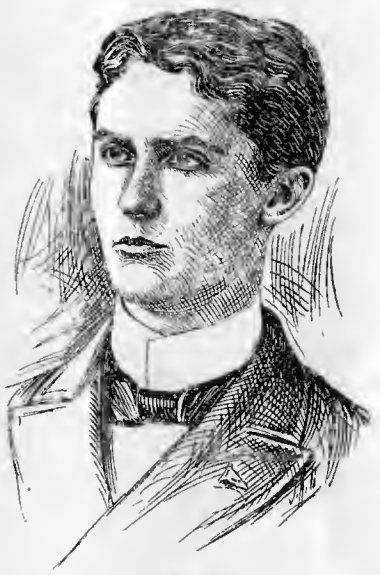
The football season, now upon us, has been a most successful one. We now have the first team Columbians ever possessed. Games have been played with Virginia Military Institute, Washington and Lee University, Hampton Athletic Club, Richmond College, Williams and Mary College and the Columbia Athletic Club. In all these events our team has created a reputation for its alma mater. To the captain of the team, Mr. Granville Lewis, much is due; and in him Columbian possesses the finest player in the South. Also to Mr. Nichol, the manager, is due to a great extent our success, owing to his business ability and excellent management.

On the 18th our boys will meet the University of Virginia on the gridiron. On Thanksgiving a game is scheduled between Columbian and the C. A. C., or (Columbia Athletic Club.)

University Notes.

Law Notes.

For some months the doors of the University have been closed. Dust has settled on books, chairs and floors. Spiders have spun webs in corners and caught the unwary fly. But with the great influx of students from every section of the country, a great transformation has been wrought. About the University all now is bustle, animation and life. Hundreds of new faces are seen upon the streets and our Faculty and Washington citizens generally are apprised of the fact that another scholastic term has begun in the best University situated within a radius of one hundred miles from the Capital of the Nation.



WILLIAM F. KIRK.

The senior law class met in the lecture hall of the University on Tuesday evening, October 19th, for the purpose of electing class officers. This was an important meeting for the students. Each one was interested in the selection of the officers to represent the Class this, the graduating year. Quite a large audience confronted Mr. John W. Wright, president of the Class for the past year, when that gentleman called the assembly to order and stated the object of the meeting. The interest in the presidency was centered in the choice between two very able and popular men, Mr. William F. Kirk, of Texas, and Mr. Galen L. Tait, of the District of Columbia. These gentlemen had many ardent admirers and eloquent speeches were made when their names were placed in nomination. The vote was very close, resulting in a majority of about six for Mr. Kirk. The other officers were elected as follows: Vice-President, A. F. Sellhausen; Secretary, W. W. H. Robinson; Treasurer, Philip Tindall; Executive Committee, Chas. Linkins, F. W. Crist, J. C. Dabney, W. H. Grandy, R. E. Burnham, W. H. Powell, C. S. Towles, G. D. Keyser.

There was a young man named Blandy,
At politics he was a dandy,
Activity terrific, resources prolific,
Mark Hanna and Warwick in one.

With a sweet winning smile he would greet you,
With a grasp of the glad hand he'd meet you;
He'd watch for you daily—political Sevengali,
Mark Hanna and Warwick in one.

First your name, then he'd ask what section
You hailed from; then broach the election.
If you join you'll get paid—through Blandy you'r made,
Mark Hanna and Warwick in one.

POET LAUREATE.

In the Post-Graduate class two ballots for President were had with the following results: First ballot—Sullivan 18, Phelps 11, Leonard 8; second ballot—Sullivan 24, Phelps 14. The following officers were elected: W. E. Sullivan, President; Henry Leonard, Vice-President; G. H. Hesselman, Secretary; J. J. Snodgrass, Treasurer; Executive Committee, Messrs. Johnson, Stewart, Woolard, Bradley, Lackey, Brawner and Brandenburg.

The principal topic among the Junior Law Class, just at the present time, seems to be that of finding a suitable Class pin. It is to be hoped that the boys of this class will succeed in their efforts, as the Class of '99 promises to be one to be remembered, and should have a pin that will do them credit.

On the evening of October 19th occurred the annual election of the Junior Class. The two candidates for the position were; Charles G. McRoberts and Henry D. Green. The ballot resulted in the election of Charles G. McRoberts, D. C. The other officers elected were; Alvah W. Patterson, Vice-President, Oregon; Joseph H. Milans, Secretary, D. C.; Joseph W. Butts, Treasurer, N. Y.; Executive Committee, Frederick E. Young, chairman, D. C.; Louis Fahnstock, Minnesota; Charles D. Westcott, D. C.; Wado Jolly, Iowa, and B. Chaplin Perkins, D. C.

Quite a number of Columbia boys who were in the Law School with us last year as students have graduated and are now full-fledged members of the bar. Unfortunately only a partial list of our prospective legal luminaries could be obtained, as many of them have gone to different parts of the United States. Following are the names of those heard from to

date: John S. Bonebrake, Va.; Frank M. Benjamin, D. C.; Frank W. Brandenburg, D. C.; William B. Corwin, Pa.; John H. DeWitt, Tenn.; John T. Hendrick, Tenn.; James B. Lackey, D. C.; John W. Latimer, D. C., George R. Linkins, D. C.; Benjamin Martin; S. C.; E. K. Pennybrook, Ill.; Chas. E. Phelps, Ill.; Harvey F. Smith and Warden Voorhees, D. C.

Corcoran Scientific School.

The year 97–96 promises to be the most presperous in the history of the School. Up to the present time 220 students have matriculated, and some of the first-year classes fill the rooms to overflowing. We are reminded that the School is still young, almost an infant, but if this infant continues his present rate of development and expansion in all directions, he will soon be the largest among the Departments of University. We say, "Let him grow!"

Under the Deanship of Dr. Munroe, the Scientific School has made for itself a name, of which its Faculty and Alumni may well feel proud, and the undergraduates can look forward with pleasure to the time when they will walk out from its porticoes bearing the insignia of Alumni of the Corcoran Scientific School of the Columbian University.

It is to be regretted that an overpowering pressure of work has forced Dr. Munroe to lay aside the duties of Dean. His universal kindness and geniality have won for him a place in the heart of every student enrolled in the school, and the regret at his resigning this labor is only assuaged by the fact that he still remains at the head of the Chemical Departmet. But upon whom could the mantle of Dean have fallen more fitly than Dr. Hodgkins, the wizard of mathematical mysterics. His clearness of speech is remarkable; invisible points become visible by means of his logic and eloquence, and his "point in space" is as sure as if visibl to the physical sight. He tells you what you wish to know without the asking. He divines your queries by intuition born of experience. While he bears about with him the dignity befitting a Ph. D., he is also the kind personal friend, and we bespeak for him much success in his new office.

There are about an even dozen in the Class of '98, and it is expected a class organization will soon be effected.

The Class of '99 still "holds its own." Their onslaught in the fall of '95 is still remembered, and they maintain the same "hot pace," though two busy winters and three hot summers have floated over their heads, marking our furrows and thinning locks (Bealer). Some have fallen by the wayside (the pace killed), but twenty or more will receive their sheepskins in '99.

The Class of 1900 are fewer in number and milder in spirit, but if they will pull together and study '99's schedule, they'll "come under the wire" in allowable time.

The Class of 1901 we hardly know, but if the prettiness of the girls and the heavy tread of the male feet count for anything, we bespeak for them a pleasant, fleeting, four years.

The Corcoran Scientific School is a factor in the University, in the City of Washington, and in the Educational World at large. There was a time when the college students gazed as from a peestal upon the Corcoran "Grinds." Now they are pleased to obtain honorable mention in the same catalogue.

Long live the Columbian University!
Long live the Corcoran Scientific School!

Veterinary Department.

Members of the class are all glad to hear that their small numbers will be further augmented by the matriculation of two of the graduates of the old National Veterinary School. They will join the senior class.

Everyone knows how hard it is to leave home, especially just after such a fine dinner, at the end of the holidays. In this our department enjoys one privilege not to be had in any of the others. It is the thought of "Jack's" hunting story when he arrives. Dr. Schwinitz' theory of its not being possible to create anything is here broken all to smash. Last year—first day after the holidays—thirty-five rabbits had fallen under Jack's eagle eye and blunderbus during his short stay home. By the end of the week, however, seventy-five was putting it at an easy figure. So far this year his record of seventy-three squirrels in sixty-six shots is, as far as we know, unequaled by any other University man.

Reid R. Ashworth, president and honor man number one of last year's class, is practicing very successfully in his old home in Providence, R. I. Good luck to him.

Joe Megary; otherwise "Old Joe," is trying to find out whether the professors of Pennsylvania's veterinary department can teach him anything new.

Kearns, one of last year's freshmen, who entered the junior class of Cornell this term,

writes the boys that he does not like the course as well as ours, especially the Materia Medica. More laurels for Dr. Buckingham. Members of the Dental Department wishing pointers should be around when we vets. have occasion to pull a horse's molar. They might at least be taught a few things about holding their own fractious patients down while operating.

Graudate School.

Prosperity has come with full force to the Graduate School of the University, so much so that Prof. Munroe has been obliged to resign the office of Dean of the Coreoran Scientific School in order to be able to devote more time to the Graduate School. This news has greatly elated the students, for they feel that with the doubled efforts of the Dean and the great opportunities for post-graduate work this branch of the University will soon be made to rank with the best in the land. The standard is now so high that only those well equipped can enter, and consequntly some good work may be looked for from this source. The classes are not all organized. Those of Prof. Lodge will begin this week. The others have already put in from two to six weeks. Some excellent theses are promised by the students and their instructors.

Dental Department.

On Wednesday, November 3, the annual election of class officers was held, with the following results: President, Fenton Bradford: Vice-President, William G. Woodford; Treasurer, Edwin H. Bogley; Secretary, Chas. W. Cuthbertson.

From the professional instruction recently given one of the members of the Graduating Class, that member will know what courtesies to "first" extend to his patient and what precautions to take to conceal his own shadow.

Owing to the great increase in the infirmary practice, it was found necessary to obtain the good offices of another assistant demonstrator. The selection this time, was not, as has been the custom, from the ranks of the graduates, but from among the students. And strange to say he was not chosen either from the senior or junior classes.

Prof. H. C. Thompson has twice quizzed his classes in operative dentistry, and on both occasions congratulated the members both upon their knowledge of the subject and the promptness with which they answered.

Prof. J. Hall Lewis is now lecturing upon the vulcanite denture.

Prof. J. R. Hagan began his lectures in that surgery, with a treatise on bacteria.

Upon the request of the Graduating Class Prof. Chas. R. Rice opened the college laboratory last week for night work. It is hoped that the members of this class will appreciate this privilege.

Notes.

Ohio has the largest number of students, 24,000, one-third of whom are women.

In all the universities of France there are no papers, no glee clubs, no fraternities, no athletics, and no commencement exercises.

Cambridge University, like Oxford, has refused to grant degrees to women. Thirty students took votes not to take degrees at Commencement if women were permitted there.

The Yale-Harvard debate will be held in New Haven, on Dec. 3d.

The youngest college president in the United States is said to be Jerome H. Raymond, president of the University of West Virginia. He is 29 years old, and at the age of 9 was a Chicago newsboy.

From members of the faculty of Princeton come a a petition for the licensing of a saloon at the University. And now the secular press is up in arms.

An exchange gives the following table of investments and incomes of the leading universities of the country:

	Productive funds.	Income.
Columbia	$9,500,000	$1,283,857
Harvard	8,526,813	1,093,846
Girard	14,921,828	1,274,905
Cornell	6,276,974	525,708
Chicago	3,350,742	589,893
Yale	3,821,875	729,681
Stanford	4,000,000	200,000
Johns Hopkins	3,000,000	155,000
University of California	2,603,883	131,965
Princeton	1,399,278	82,462

Fraternity Gleanings.

Kappa Alpha.

Our chapter started out this year in a very flourishing condition, many of the old men returning.

We have now about twenty active members. Charlie McRoberts is still our goat.

We will shortly be established in our new house, after which we hope to welcome our "fair" friends to an enjoyable evening with us.

We extend hearty greetings to our brother *fraters*.

Phi Delta Phi.

The Marshall Chapter of Phi Delta Phi has begun the year under most favorable auspices. Such a lively interest has been shown by all the members that it has been possible to make satisfactory arrangements for a chapter house, which will be opened in about two weeks. The first banquet of the year will be held on Monday, the 22d instant.

The 13th of December will be the twenty-eighth anniversary of the founding of the fraternity, and all chapters throughout the country will commemorate the event with appropriate ceremonies.

At a recent meeting the following officers for the ensuing year were elected: Consul, Wallace D. McLean; Pro-Consul, Joseph D. Felix; Scriptor, Alexander G. Bentley; Historian, Theodore T. Dorman; Tribune, Franklin P. Hopgood; Gladiator, Harry L. Clapp.

Kappa Sigma.

Alpha Eta Chapter enters upon the scholastic year of '97–'98 with every prospect of the most successful year of its existence. The Chapter has already held several meetings and has given "Billy" every opportunity to show the strength he has accumulated during vacation. We have had the pleasure of adding to our number so far this year Messrs. Dalhgren, Satoris, Benjamin, Adams, Fouse, and Young of the Law School and Mr. Key of the Medical Department. The members of last year who are still with us are Messrs. Phelps, Allen, Wright, Kirk, Smith, Boisseau, Nichols, Harris, McNeil, Rill, Stine, Beard, Pollard, Gilson, Green, Bright, Dabney, Loucks and Scrannage.

Glee Club.

On Wednesday night an organization was perfected to be known as the Columbian University Glee Club. The purpose of this club is to give vocal and instrumental entertainments during the coming year. Officers were elected as follows: Chas. Linkins, President; Weimer Reinolds, Vice-President; A. Coulter Wells, Secretary-Treasurer. Mr. Whitehead was appointed to draw up a constitution and Messrs. Colloday, Westcott and Crist to select a suitable musical director.

Law School Debating Society.

The Debating Society in the Law School this year bids fair to be the most successful one that the school has ever had. Efforts are on foot to obtain an inter-collegiate debate with one or more of the large universities.

Invitations are out for the first public debate, which will be held in the lecture hall, Saturday, November 20th, at 8 p. m. This debate is the first in a series of six to be given during the year. From the two best speakers on each public debate the three different classes will choose two representatives to speak on the yearly prize debate. The speakers are Messrs. Aird and Church of the post-graduate class, Alward and Hopgood of the senior class and Denison and Crooks of the junior class. The question for debate is, "Resolved, That the Hawaiian Islands shall be annexed to the United States."

The officers elected for the ensuing year are: Ralph H. Riddleberger, President; B. C. Perkins, Vice-President; Joseph W. Butts, Secretary; William M. Ellison, Treasurer; Lewis, Brown, Alden, Grandy, Thigpen, Patterson and Milbourne, Members of the Executive Committee, and Mr. Hopgood, Critic.

The Virginia Club.

The Virginia Club of the Law School is composed of Virginians who are now taking or have taken a course of law in the Columbian Law School. The object of the club is to promote mutual acquaintance and advance social and intellectual improvement.

The officers for the ensuing year are: J. C. Dabney, President; Alexander Spotswood, Vice-President; W. S. Stamper, Secretary-Treasurer; C. S. Towles, Press Correspondent; F. C. Handy, Historian; Ralph H. Riddleburger, L. K. C. Gloon and Wm. E. Ellison, Executive Committee.

At the last meeting the design for a club pin was adopted. The club is making an effort to preserve the history of each member. To this end each member is requested to furnish a sketch of his life to the historian. The first "smoker" will be held on December 3, 1897.

(CONTINUED FROM PAGE 3.

payable had been immaterial, still, notwithstanding the confession in the replication of the defendant's matter of justification in the plea, the defendant could not have judgment *non obstante*, but only an arrest of judgment. Now, what is the reason assigned for this enunciation? Why, merely this,—"We are not aware," he goes on to say, "that any instance can be produced where the defendant, after an issue which he has taken has been found against him, has been allowed to have judgment entered in his favor *non obstante*."

May we not reasonably conjecture from the Chief Justice's use of the adverb "perhaps" as a qualification of his statement that a motion in arrest of judgment would have been more correct, that his opinion on this subject was not free from doubt, and that if the learned court had not been of opinion that there was "no ground whatever for the motion in the one form or the other," and so no call for a decision on the point, it would have seen the propriety of laying down the law on this subject in accordance with right reason. Indeed, some nine years afterwards, when counsel referred to his opinion in *Rand* v. *Vaughan* as authority for the proposition that the defendant could not move for judgment *non obstante*, the Chief Justice interrupted him with the remark, "*I said only that the court was not aware of any instance*" [of such a judgment for the defendant]; * and Parke, B., followed him with the observation that "the *dictum* referred to was not necessary to the decision."†

To illustrate further the unreasonableness of restricting the judgment *non obstante* to the plaintiff, we will suppose that in an action of covenant the defendant pleads in bar a release under seal, and the plaintiff replies that the alleged release was made under duress of the defendant's threat to seize the plaintiff's goods if he did not execute it, and this allegation is traversed in the rejoinder, and the jury find a verdict for the plaintiff on that issue, which, being immaterial, affords neither a basis for a judgment nor an occasion for an award of repleader, seeing that the confession of the *factum* of the release in the replication shows that nothing is to be gained by pleading *de novo;* why, then, should the court stop at arresting judgment on the verdict, and not dispose of the case finally by giving the defendant judgment *veredicto non obstante?* Now, if, in the case supposed, the replication had presented a valid instance of duress *per minas*, and the defendant in his rejoinder had admitted the threats, and set up in avoidance that he had no intention of carrying them into execution, and the plaintiff had traversed this allegation in his surrejoinder, and the jury had found for the defendant on that issue, the court, regarding the issue as beside the merits, and the fact of the plaintiff's answer to the defendant's bar as fully confessed by the rejoinder, would enter judgment *non obstante* for the plaintiff. We confess that we do not perceive the distinction, if there is a distinction, between the two cases. Again, suppose in debt on an obligation the defendant pleads infancy, and the plaintiff replies that the obligation was given for necessaries, which, being traversed, the jury find for the plaintiff on this immaterial issue, why is not the defendant's right to have the controversy settled by final judgment *nullo respectu habito veredicto?* By restricting the defendant to an arrest of judgment merely, the plaintiff is left free to bring another action, and, profiting by his experience in the first one, give a sufficient answer to the defendant's bar, if he can; whereas the defendant, in like case, is absolutely concluded by a judgment *non obstante*.

In *Bellows* v. *Shannon*,* Judge Bronson gives utterance to the current doctrine on this subject; but as the defendant in that case had a verdict on an issue which was decisive of the case, and entitled him to judgment, it was entirely unnecessary for the court to determine the question now in hand. Judge Bronson, in support of his position, refers to the case of *Schermerhorn* v. *Schermerhorn*.† In that case, Judge Marcy says there is no case in which the judgment *non obstante* has been rendered at the defendant's instance, and that he must, therefore, treat the defendant's motion as for an arrest of judgment merely. But we submit that, as the court was of opinion that the plaintiff was entitled to judgment on the verdict, the most that it can be held to have decided is that the defendant was not entitled to an arrest of judgment, which is only the first step towards, although necessarily involved in, the judgment *non obstante*. It was only in the event the court should be of opinion that the verdict for the plaintiff was on an immaterial issue that it would have been called upon to decide whether it would simply arrest the judgment, or go farther, and enter judgment for the defendant, *non obstante*. The question cannot, therefore, be deemed a point in judgment in this case.

In *Bradshaw* v. *Hedge*,‡ the defendant moved for judgment *non obstante*, on the

*The learned judge, no doubt, regarded the instance of judgment *non obstante* for the avowant in replevin as forming no exception to what he said,—the avowant being really a plaintiff, the avowry asking a return of the goods.

† *Vide Regina* v. *Gov. of Darlington School*, 6 Q. B. 704; s. c. 51 Eng. C. L. R. p. 703.

*2 Hill, 88. †5 Wend. 513. ‡10 Iowa 405.

ground that the verdict was, "contrary to the instructions of the court, and not justified by the evidence." The motion was denied, as it must have been by any court adhering to the rules of common-law procedure, which required this species of judgment to be founded on the pleadings. That the learned court laid down the law on the point in the usual way is not denied, but it must be remembered that what it said was purely *gratis dictum*.

In *Smith* v. *Powers*,* the learned Chief Justice Parker states the law adversely to the defendant, but the record before him did not present a case for a motion for judgment *non obstante* by the defendant.

In *Buckingham* v. *McCracken*,† there was a verdict for plaintiff on the issue of not guilty, and judgment *non obstante* was given *for the defendant*, which was reversed, on the ground that there was no misjoinder of causes of action, and judgment ordered to be entered pursuant to the verdict. There was, therefore, no call for a decision of the question in hand. But it may be said touching this case, that if the law had been with the defendant an arrest of judgment simply would have been fully as efficacious for him as a judgment *non obstante* on a point merely jurisdictional, since in either event the plaintiff would have been entitled to another writ.

In *Bowdre* v. *Hampton*‡ and *Stoughton* v. *Mott*§ the question was directly presented for decision, and adjudged adversely to the defendant. It may be said of these cases, that in the former the defendant omitted to urge his right to judgment regardless of the verdict until after the case was removed to the Court of Error; and in the latter the learned court seem to have been content to adopt the law as laid down without much, if any, examination of the subject.

In *Martindale* v. *Price*,‖ the defendant's right to judgment *non obstante* was recognized, but the opinion of the court was founded on a statute. Moreover, the motion was denied, because made for the first time in the Appellate Court. And in the case of the *Bank, &c.*, v. *Lefevre*,¶ a judgment *non obstante* was entered on defendant's motion, but on a ground wholly unknown to common-law procedure, namely, that the evidence did not entitle the plaintiff to a verdict. These are the only cases we have found in which a judgment *non obstante* was entered for defendent; but as the courts in both cases proceeded on principles foreign to the common law, we do not rely on them to support an argument based on common-law principles, as this is. We must therefore admit that the point we contend for is without the sanction of a single decision made directly on the point.

There is a *dictum* in the case of *Sullenberger* v. *Gest** which lends countenance to the view we take. The judgment was on a verdict for plaintiff, and the error assigned was that the verdict was on an immaterial issue, and that a repleader should have been awarded. The judgment was affirmed, but the court, in considering the subject of verdicts on immaterial issues, said: "If the plea or replication is good in form, but sets up matter that neither constitutes *bar nor answer*, and issue be taken upon it, and it be found true by verdict, it still leaves *the cause of action or bar* unanswered and confessed, because the fact pleaded and found is itself no bar; and, in such case, judgment *non obstante veredicto* should be in favor *of the party* whose *cause of action or bar* is confessed, and not avoided by the fact set up, though true. This is upon the ground that the facts pleaded in themselves constitute *no bar or answer.*"

It is, furthermore, not to be overlooked that in the case of *Benson* v. *Duncan* † Sir Fitzroy Kelly—now Lord Chief Baron of the Exchequer—moved for judgment *non obstante* for the defendant; but the plea being bad, and the declaration showing a good cause of action, the plaintiff had judgment, and so a decision on the point in hand was not called for; but the fact that counsel so eminent as Sir Fitzroy Kelly made and passed the motion shows that, in his opinion, the point was worth speaking to at the bar.

Mr. Chitty and Mr. Stephen present the doctrine on this subject as it is generally given,‡ but Mr. Gould states it in a manner which would seem to indicate that he was at least sceptical as to the received dogma. He says, "In some cases where *the party* who has obtained a verdict is not entitled to judgment upon it, the court not only arrests judgment in pursuance of the verdict, but immediately renders judgment in chief *veredicto non obstante, i. e.*, in favor *of the party against whom* the verdict has been found."§ Mr. Lush, in his "Common-Law Practice," states the law with some caution. He says, "The courts will not, *it seems*, do more for the defendant, in case of an insufficiency in law in the pleading of the plaintiffs, on which issue in fact is joined, than arrest his judgment, as already explained.'‖ In a note to

* 15 N. H. 562. † 2 Ohio St. 294. ‡ 6 Rich [S. C.] 211.
§ 15 Vt. 169. ‖ 14 Ind. 118. ¶ 74 Pa. St. 49.

* 14 Ohio 206. † 3 Exch. 652.
‡ Ch. Pl. [657]; Steph. Pl. 126, ed. Tyler.
§ Gould, Pl., c. 10, § 46, p. 482, ed. 1876.
‖ Comm. Law Pr., by Stephen, p. 479, ed. 1856.

the above passage the learned author makes a *quœre*, "If judgment *non obstante* can be given for defendant in ordinary actions, where the plaintiff's pleading confesses, but fails to avoid that of the defendant."

In *Regina* v. *Gov. of Darlington School*,* which was a *mandamus*, the jury found for the crown on all the issues; but the defendants moved in arrest of judgment or for entering a judgment for themselves *non obstante veredicto*, and after cause shown the Queen's Bench entered judgment for the defendants, the verdict notwithstanding. In his judgment, Lord Denman, C. J., apparently treats the defendant's right to the judgment *non obstante* as a matter of course. The case was carried by a writ of error to the Exchequer Chamber, where the judgment of the Queen's Bench was affirmed; but the Chief Justice (Tindal), in delivering the opinion of the court, expressly puts the defendant's rights to the judgment *non obstante*, on the provisions of certain statutes regulating proceedings in *mandamus*, saying, "And for this reason it becomes unnecessary to consider the question, whether in ordinary actions the defendant is entitled to a judgment in his favor *non obstante veredicto*." Thus, in Michaelmas Vacation, 1844, the point is recognized as still undetermined in Westminster Hall.

We desire now to refer to some pregnant and instructive observations which fell from Mr. Baron Parke during the argument of this case in the Exchequer Chamber. Pashley, for the plaintiff in error, having stated that judgment *non obstante* was never entered for the defendants, Parke, B., interrups him with this observation: "The principle is, that where there is an express confession but no avoidance, judgment shall be given for the opposite party. Is there any authority for saying that that does not apply to a plaintiff's as well as a defendant's pleading?" To this the counsel replies, that "no instance appears in which it has been so held." The counsel having cited Fitzherbert's Abridgment as authority for the proposition that, where the issue on a bad replication has been found for the plaintiff, a repleader has been awarded, Parke, B., remarked, "If the plaintiff, by a bad replication, confesses, and does not avoid the matter pleaded, I cannot see why there should not be judgment *non obstante veredicto*, as well as where the defendant makes the same fault in his plea." Further on the learned judge puts this question, "And why may not it [judgment *non obstante*] be for the defendant as well as for the plaintiff?" The counsel answers, "The practice appears to have been otherwise." In reply to the contention that a repleader is awarded on an insufficient replication, the learned judge says, "Suppose, in debt on bond, a release were pleaded, and the replication admitted the release, but alleged that it was not on parchment, it could not be necessary to award a repleader, a good defence being admitted."

We have already alluded to the observation of Tindal, C. J., during the argument of this case, that all he meant to say in *Rand* v. *Vaughan* was that the court was not aware of any instance of a judgment *non obstante* for the defendant. This was in reply to the remark of counsel that the Chief Justice had said in that case that a defendant could not have a judgment *non obstante* entered in his favor.

Had the case of *Regina* v. *Gov. of Darlington School* called for a decision of the general question, it is more than probable that both these learned judges would have laid down the law in accordance with the views submitted herein. As we have seen, the learned counsel who argued the case for the plaintiff in error was unable to combat the strong suggestions of Mr. Baron Parke with anything more than reiterated appeals to the practice of the courts, without any attempt to justify that practice by an appeal to reason. *Enimvero scire leges non hoc est, verba earum tenere, sed vim et potestatem.**

WM. A. MAURY.

Washington, D. C.

*6 Q. B. 682; s. c. 51 Eng. C. L. R. 681.

*Dig. 1. 3. 17.

Prof. W. P. Hay, biologist, who has been connected with Columbian for some time past, made quite an extensive trip through the West to northern Oregon the past summer for the Fish Commission.

Mrs. Estelle Davis, whose ad. appears in another column, has arranged to have a lecture on "The Drama" delivered at her studio Friday evening, November 19th, by Mr. F. F. Mackey, of New York. Mr. Mackey is an actor of National renown and one of the foremost teachers of elocution in the country. The lecture will be specially interesting to those who are studying, or have studied, elocution.

The attention of our readers who desire to extend their knowledge, particularly of Law Latin, is invited to Professor Jackson's book. On sale by Mr. John Byrnes.